

1  
2  
3  
4  
5  
6 **BEFORE THE**  
7 **BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-228

11 **MARK EUGENE MOORE**  
12 **4405 S. Shades Crest Road**  
13 **Bessemer, AL 35022**  
14 **Registered Nurse License No. 677516**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

Respondent.

15 **FINDINGS OF FACT**

16 1. On or about October 11, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her  
17 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
18 Consumer Affairs, filed Accusation No. 2012-228 against Mark Eugene Moore ("Respondent")  
19 before the Board of Registered Nursing.

20 2. On or about April 11, 2006, the Board of Registered Nursing ("Board") issued  
21 Registered Nurse License No. 677516 to Respondent. The Registered Nurse License expired on  
22 January 31, 2008, and has not been renewed. Pursuant to Business and Professions Code  
23 ("Code") sections 118, subdivision (b) and 2764, this lapse in licensure, however, does not  
24 deprive the Board of jurisdiction to take disciplinary action against Respondent's license.

25 3. On or about October 11, 2011, Respondent was served by Certified and First Class  
26 Mail copies of the Accusation No. 2012-228, Statement to Respondent, Notice of Defense,  
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
28

1 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
2 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.  
3 Respondent's address on record with the Board was and is:

4 **4405 S. Shades Crest Road**  
5 **Bessemer, AL 35022.**

6 4. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

8 5. On or about October 19, 2011, the domestic return receipt, for the aforementioned  
9 documents served via Certified Mail, was returned to the Board indicating that the documents  
10 were delivered. The domestic return receipt was signed in the name of "Milton Moore." The  
11 aforementioned documents served via First Class Mail were not returned by the U.S. Postal  
12 Service marked as undeliverable or unclaimed.

13 6. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
16 of the accusation not expressly admitted. Failure to file a notice of defense shall  
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
18 may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
20 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
21 2012-228.

22 8. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at the  
24 hearing, the agency may take action based upon the respondent's express admissions  
25 or upon other evidence and affidavits may be used as evidence without any notice to  
26 respondent.

27 9. Pursuant to its authority under Government Code section 11520, the Board finds  
28 Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 2012-228, finds

1 that the charges and allegations in Accusation No. 2012-228, are separately and severally, found  
2 to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$485.00 as of November 2, 2011.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Mark Eugene Moore has  
8 subjected his Registered Nurse License No. 677516 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
11 Nurse License based upon the following violations alleged in the Accusation which are supported  
12 by the evidence contained in the Default Decision Evidence Packet in this case.:

13 a. **Disciplinary Action by the Alabama Board of Nursing.** Respondent is  
14 subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of  
15 unprofessional conduct in that Respondent's registered nurse license was disciplined by the  
16 Alabama Board of Nursing ("Alabama Board").

17 i. On or about May 21, 2008, pursuant to the terms of the Consent Order  
18 issued by the Alabama Board, in the disciplinary action entitled *In the*  
19 *Matter of: Mark Eugene Moore, License No. 1-103790*  
20 *(Active/Probation)*, Case No. 2007-0483, the Alabama Board revoked  
21 Respondent's registered nurse license. The basis for the Order is as  
22 follows:

23 ii. On or about July 21, 2006, the Alabama Board issued an Order which  
24 placed Respondent's license on probation for twelve months. This action  
25 was due to Respondent's failure to complete the controlled drug infusion  
26 record for Fentanyl and Ativan on his assigned patient's chart while  
27 employed at University of Alabama at Birmingham Medical Center.  
28

- 1                   iii. On or about January 19, 2007, Respondent tested positive for cocaine in  
2                   violation of Respondent's probation.
- 3                   iv. On or about May 11, 2007, the Alabama Board issued a Consent Order  
4                   suspending Respondent's registered nurse license until such time that the  
5                   Respondent undergoes a chemical dependency evaluation and completes  
6                   the recommended treatment program. Pursuant to the Consent Order, the  
7                   suspension was for a period of twelve months. After the expiration of the  
8                   twelve months, in the event that Respondent failed to complete the  
9                   chemical dependency evaluation and complete a treatment program,  
10                  Respondent's license would be revoked.
- 11                  v. Respondent failed to complete the treatment program and recovery  
12                  program within the twelve month period of time and the Alabama Board  
13                  revoked Respondent's registered nurse license.

14                  **b. Unprofessional Conduct.** Respondent is subject to disciplinary action under  
15                  Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct.  
16                  The conduct is more particularly described in paragraph 3, subparagraphs (a)(i-v), inclusive,  
17                  above, and herein incorporated by reference.

18                  ///

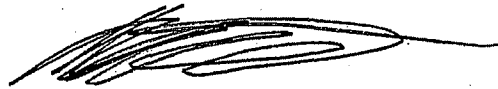
ORDER

IT IS SO ORDERED that Registered Nurse License No. 677516, heretofore issued to Respondent Mark Eugene Moore, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012.

It is so ORDERED July 5, 2012



FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

51014270.DOC  
DOJ Matter ID: LA2011601547

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 RANDY M. MAILMAN  
Deputy Attorney General  
4 State Bar No. 246134  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2442  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2012-228*

11 **MARK EUGENE MOORE**  
12 **4405 S. Shades Crest Road**  
13 **Bessemer, AL 35022**  
**Registered Nurse License No. 677516**

**A C C U S A T I O N**

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
20 Consumer Affairs.

21 2. On or about April 11, 2006, the Board of Registered Nursing issued Registered Nurse  
22 License Number 677516 to Mark Eugene Moore ("Respondent"). The Registered Nurse License  
23 expired on January 31, 2008, and has not been renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
26 Department of Consumer Affairs, under the authority of the following laws. All section  
27 references are to the Business and Professions Code ("Code") unless otherwise indicated.  
28

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

## STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action ...”

## COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by the Alabama Board of Nursing)

9. Respondent is subject to disciplinary action under Code section 2761, subdivision

1 (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was  
2 disciplined by the Alabama Board of Nursing ("Alabama Board"):

3 10. On or about May 21, 2008, pursuant to the terms of the Consent Order issued by  
4 the Alabama Board, in the disciplinary action entitled *In the Matter of: Mark Eugene Moore,*  
5 *License No. 1-103790 (Active/Probation), Case No. 2007-0483,* the Alabama Board revoked  
6 Respondent's registered nurse license. The basis for the Order is as follows:

7 a. On or about July 21, 2006, the Alabama Board issued an Order which placed  
8 Respondent's license on probation for twelve months. This action was due to Respondent's  
9 failure to complete the controlled drug infusion record for Fentanyl and Ativan on his assigned  
10 patient's chart while employed at University of Alabama at Birmingham Medical Center.

11 b. On or about January 19, 2007, Respondent tested positive for cocaine in violation  
12 of Respondent's probation.

13 c. On or about May 11, 2007, the Alabama Board issued a Consent Order suspending  
14 Respondent's registered nurse license until such time that the Respondent undergoes a chemical  
15 dependency evaluation and completes the recommended treatment program. Pursuant to the  
16 Consent Order, the suspension was for a period of twelve months. After the expiration of the  
17 twelve months, in the event that Respondent failed to complete the chemical dependency  
18 evaluation and complete a treatment program, Respondent's license would be revoked.

19 d. Respondent failed to complete the treatment program and recovery program within  
20 the twelve month period of time and the Alabama Board revoked Respondent's registered nurse  
21 license.

## 22 SECOND CAUSE FOR DISCIPLINE

### 23 (Unprofessional Conduct)

24 11. Respondent is subject to disciplinary action under Code section 2761, subdivision  
25 (a), in that Respondent committed acts of unprofessional conduct. The conduct is more  
26 particularly described in paragraphs 9 and 10, subparagraphs (a) through (d), inclusive, above,  
27 and herein incorporated by reference.

28 ///



PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 677516, issued to Mark Eugene Moore;

2. Ordering Mark Eugene Moore to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

October 11, 2011

Stacie Beir

for LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

LA2011601547  
50985028.doc